



NON-DISCRIMINATION OMBUDSMAN

**MONITORING THE ENFORCEMENT OF  
REMOVALS FROM THE COUNTRY  
OBSERVATIONS FROM 2014–2019**



**ASYLUM, MIGRATION  
AND INTEGRATION FUND**

Supported by the European Union

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## 1. The Effectiveness of Monitoring - project

### 1.1. Background to the project

The Non-Discrimination Ombudsman's duty of monitoring removals from the country is relatively new, of which there were no previous national models or experience. The Return Directive<sup>1</sup>, Regulation concerning the operations of the European Border and Coast Guard Agency (in future Frontex)<sup>2</sup> and national legislation<sup>3</sup> require monitoring, but do not specify its nature. The resources of the Ombudsman only permit the monitoring of a small percentage of returns. It is therefore important to assess monitoring activities and improve the systemic effectiveness of monitoring in addition to accompanying individual return operations.

The Non-Discrimination Ombudsman has received support from the Asylum, Migration and Integration Fund (AMIF) of the EU Home Affairs Funds for the project 'Palautusten valvonnan vaikuttavuus' (Effectiveness of returns monitoring) on studying the effectiveness of returns monitoring, implemented from 1 February 2019 to 31 July 2020. The project contributes to the specific objective of enhancing fair and effective return strategies set in the Regulation establishing the Fund (EU/516/2014). With regard to Finland's national objectives, the project contributes to the goals set for objective 3.3. Cooperation. The national action plan for 2014–2020<sup>4</sup> stipulates that the planning, launch and development of external and independent monitoring of returns be supported, for example by comparing best practices and improving methods, as well as providing appropriate training to the authorities. The aim is to improve external and independent monitoring, increase transparency and improve the legal protection of both returnees and their escorts.

The report at hand was drawn up as part of an AMIF project assessing the monitoring launched and carried out in 2014–2019. The report also discusses the police's removal operations and best practices in them on the basis of the materials consisting of individual monitoring operations and recommends certain improvements. National monitoring activities are also considered in the light of European developments. The European Union aims to increase returns, which emphasises the importance of monitoring and the need for cooperation between Member States and Frontex.

The project also enhanced the Ombudsman's participation in European collaboration for the development of monitoring under the Return Directive. The monitoring team's internal and external communications capabilities were also improved. The project was implemented by Team Manager Pirjo Kruskopf of the Office of the Non-Discrimination Ombudsman (1 February 2019 – 31 January 2020), Senior Officer Päivi Keskitalo, Communications Manager Maria Swanljung and Senior Officer Maija Koskenoja (1 February 2020 – 31 July 2020).

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<sup>1</sup> Return Directive (2008/115/EC), Article 8(6) <sup>1</sup> Return Directive (2008/115/EC), Article 8(6)

<sup>2</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council (Frontex Regulation) and new Frontex Regulation (EU) 2019/1896

<sup>3</sup> Aliens Act, section 152b

<sup>4</sup> <https://eusa-rahastot.fi/documents/3488306/0/AMIF+toimeenpano-ohjelma+1.10.2019.pdf/4c1f2a35-5c98-5829-8ffa-f07c486067a5/AMIF+toimeenpano-ohjelma+1.10.2019.pdf>

The steering group for the Ombudsman's AMIF project consisted of Chief Superintendent Mia Poutanen of the National Police Board (instructing the police on removal operations), Director Mikael Laurinkari of the Helsinki Detention Unit (cooperation with the police in implementing removals, challenging situations and identifying vulnerability), Senior Officer Max Janzon of the Border Guard (cooperation with Frontex) and Associate Legal Officer Thomas Bergman of the UNHCR's Regional Representation for Northern Europe in Stockholm (1 February 2019 – 31 January 2020) (bolstering the human rights perspective). The project's steering group was chaired by Non-Discrimination Ombudsman Kirsi Pimiä (1 February 2019 – 31 January 2020) and Head of Office Rainer Hiltunen (1 February 2020 – 31 July 2020).

## 1.2 Project material

The "Palautusten valvonnan vaikuttavuus" (Effectiveness of returns monitoring) project is a survey aimed at improving the functions of the authorities, not an academic study. The survey assesses the police's removal operations, insofar as monitors have been present to observe them, along with the monitoring carried out by the monitors and its effectiveness and development needs. The project's aim was to produce a survey of the establishment, development and assessment of removals monitoring in 2014–2019. It also sought to compile good practices identified by monitors in the police's removal operations and, on the other hand, to identify development needs and suggest measures to address them. Other objectives included defining the requirements for maintaining an effective monitoring system and to analyse the factors influencing the effectiveness of monitoring. The ultimate objective of the project is to contribute to the increased consideration of the fundamental and human rights in the practices for removing third-country nationals from the country.

The material consists of 189 individual removal monitoring operations conducted in 2014–2019. Since 2016, monitors have given the police written feedback on their observations made during monitoring. This feedback constitutes the core material for this survey. The contents of the feedback were grouped into themes and compiled into tables before analysis. The other material used in the survey consisted of official documents (including recommendations, letters, complaints and requests for assessment) relating to the enforcement of removals, along with correspondence and meetings with various parties. The wealth of experience accumulated by the monitors in the course of their work since 2014 naturally played a key role in writing this survey.

Certain themes that would have merited closer inspection arose from the material. However, limited resources forced the team to focus on the core themes that emerged from the material and have characterised practical monitoring work over the years. Other themes identified in the material will be addressed in the Non-Discrimination Ombudsman's next project, for which the Ombudsman has already received AMIF project funding. The project concerns the identification of vulnerable returnees and taking their needs into account in return operations. The project will start in August 2020.

## 2. Monitoring the enforcement of removals from the country

### 2.1 Removal from the country

Removal operations carried out by the police are primarily regulated by the Return Directive, Aliens Act, Police Act and the guidelines and regulations issued by the National Police Board. The Return Directive obliges Member States to remove individuals staying illegally on their territory. The Directive provides for the procedures to be followed in removal and the legal remedies of those being removed. The Directive does not provide for the criteria for removal.

In Finland, the removal of foreign nationals is based on a decision to refuse entry or deny admittance or stay to an individual, or on a deportation decision. A decision to deny admittance or stay can be made by the police, Border Guard or Finnish Immigration Service. Deportation decisions are made by the Finnish Immigration Service. These decisions can be appealed to the administrative courts and the Supreme Administrative Court. The police or border control authorities are responsible for the enforcement of decisions to remove individuals from the country.

The general term “return” is often used for the enforcement of removals from the country. The word has also become established in the legislation. Section 146a of the Aliens Act defines the meaning of “return”. According to the Act, “return means a procedure for removal from the country during which a third-country national who has received a decision on refusal of entry, denial of admittance or stay or deportation either leaves the country voluntarily or is removed from the country”.

The Act also provides for the destinations to which individuals can be returned. Returnees are primarily returned to their country of origin but returns to, for example to a transit country or a country to which the returnee is accepted can also be possible under certain circumstances.

Many of those deported or denied acceptance or stay leave the country independently. This means that the recipient of the removal decision leaves the country themselves, without support from the authorities or outside parties. On other occasions, individuals can return to the destination with help from the International Organization for Migration (IOM).

If an individual does not return independently for one reason or another, the authorities will ensure that the individual being removed from the country actually crosses Finland’s border. This can take place as an “enforced return”. In these situations, the police (or border control authority) deliver the individual's travel document to the border crossing and make sure that the person boards the flight or other means of transport. Sometimes the police accompany the returnee all the way to their destination. The term used for such operations is “escorted return”. The term “forced return” is often used in the media and social media. This refers specifically to escorted removal from the country. The use of the term is mainly related to the fact that some escorted returnees object to being returned for one reason or another and do not agree to leave the country voluntarily.<sup>5</sup>

The authority often handles the travel arrangements for enforced and escorted returns, and the police designate escorts for escorted removals from Finland.

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<sup>5</sup> Not all returns escorted by police involve compulsion; escorts may also be required by the safety of the means of transport (Aliens Act, section 177). The carrier may also request an escort to be posted. The safety aspect often comes into play when returning offenders, in which case escorts can be posted to ensure the safety of other passengers.

The police must ensure that the returnee is fit for travel and that the removal decision is enforceable. The enforcement of the decision can be prohibited by an administrative court, the Supreme Administrative Court or an international appeals body.

#### Enforced removals from the country effected by the police<sup>6</sup>, 2014-2019:

	2014	2015	2016	2017	2018	2019	Total
<b>Voluntary return</b>	433	589	820	452	358	518	3 170
<b>Transported to border crossing</b>	371	247	412	456	472	144	2 102
<b>Escorted</b>	449	682	1 675	557	560	421	4 344
<b>Enforced removal</b>	1 302	1 218	1 921	1 012	1 077	1 572	8 102
<b>Total</b>	2 555	2 736	4 828	2 477	2 467	2 655	17 718

In recent years, the police have returned people to more than 100 different countries from Finland each year, and people have been returned to approximately 160 different countries in total. A large part of returns made by air are made on scheduled flights. Charter flights are used for returns in some situations. According to the monitors' observations, this has been the case, for example when several individuals have been returned to the same country or two geographically close countries, or if a return on a scheduled flight has not been considered viable. In recent years, returns have been made on Frontex's joint return flights and national charter flights to at least Albania, Kosovo, Italy, Greece, Germany, Pakistan, Democratic Republic of the Congo, Nigeria, Iraq and Afghanistan.

All police departments enforce removals. National responsibilities for the implementation of returns have been assigned to the police departments of Helsinki and South-East Finland. Since the detention units are located in Helsinki and Joutseno, the police departments of Helsinki and South-East Finland play an important role in the implementation of returns. Some charter flights monitored by the Non-Discrimination Ombudsman also had escorts from the Border Guard.

## 2.2 Background and process for enacting the monitoring obligation

Article 8(6) of the Return Directive, providing for the monitoring of returns, was transposed into national legislation in 2014. The term "Ombudsman for Minorities" is used for the Ombudsman in the drafting materials of the Act. The title changed to Non-Discrimination Ombudsman in 2015 when the new Non-Discrimination Act entered into force. The contemporary title "Ombudsman for Minorities" is used of the supervisory authority in this section.

The Return Directive was transposed through amendments to the Aliens Act in 2011. At the time, the legislators were of the opinion that the effective monitoring of forced returns was already provided for in national legislation. The Government proposal concerning the transposition of the Directive<sup>7</sup> stated that the Parliamentary Ombudsman and Chancellor of Justice are tasked with the general oversight of legality and complaints about decisions and procedures in removal matters can also be addressed to them without restriction.

<sup>6</sup> Data from the police's PolStat system

<sup>7</sup> HE 208/2010

Furthermore, according to section 208 of the Aliens Act, Ombudsman for Minorities must be notified of any decision to deny admittance or stay to an alien, or to refuse entry to or deport an alien. At the request of Ombudsman for Minorities, the Ombudsman must also be notified of any other decisions under the Aliens Act. Confidentiality provisions notwithstanding, Ombudsman for Minorities is entitled to the information required for the discharge of the Ombudsman's duties provided for in the Aliens Act. It was considered that these provisions fulfilled the directive's requirement for an effective monitoring system, and the legislators did not see the need to pass specific enactments on monitoring forced returns.

The European Commission nevertheless found in its assessment of Finland's transposition of the Return Directive in 2012 that the requirements for the effective monitoring of removals are not being met. At the same time, the Commission proposed that returns should be subject to external monitoring. The Commission also considered the legality oversight of the decision-making process to be exemplary, whereas the monitoring of enforcement only complied with the requirements of the Directive for returns carried out by charter flights. In the Commission's view, the internal legality oversight of returns on scheduled flights did not meet the requirements of the Directive, but should be subjected to external monitoring. Even for charter flights, however, the monitoring was in actuality limited to certain individual district court judges accompanying return flights on a few occasions, even though there was no basis in law for the practice.

## Preparations for the matter

The amendment concerning the monitoring of enforced removals was drafted in the Ministry of the Interior. In the preparations for the Government proposal<sup>8</sup>, the Parliamentary Ombudsman was also proposed as an alternative to the Ombudsman for Minorities as the authority for monitoring the enforcement of removals from the country<sup>9</sup>. After preliminary discussions, the Parliamentary Ombudsman nevertheless stated that it did not have the capabilities to accept the duty at that time. Certain stakeholders were also in favour of appointing the Parliamentary Ombudsman as the supervisory authority when the draft bill was circulated for comments. The Administration Committee stated in its report<sup>10</sup> that the preparations for assigning the duty to the Parliamentary Ombudsman would require more extensive and thorough preparatory work than was possible with the schedule at hand. The Finns Party members of the Committee were of the opinion that the monitoring duties should be given to the Parliamentary Ombudsman.

According to the Government proposal, however, Ombudsman for Minorities was the appropriate authority to monitor returns. The grounds for this included the statutory obligation of notifying the Ombudsman for Minorities of decisions concerning removals from the country, along with the independence and neutrality of the Ombudsman. Furthermore, safeguarding the rights of foreign nationals was also part of the Ombudsman for Minorities remit.

## The Government proposal clarified the Ombudsman's duties and powers related to monitoring

The Government proposal contained some instructions with regard to monitoring. The key subjects of monitoring were to be persons removed from Finland under escort, but Ombudsman for Minorities could also monitor other methods of return, such as voluntary return, where necessary.

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<sup>8</sup> HE 134/2013

<sup>9</sup> The Parliamentary Ombudsman was designated as the National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in November 2014. The NPM carries out regular inspections of places where persons deprived of their liberty are being held. In several European countries (e.g. Denmark, Greece, Spain, France, Italy) the NPM also monitors the enforcement of removals from the country.

<sup>10</sup> HaVM 19/2013 vp

The scope of monitoring could vary, either covering the entire return operation or only a specific phase, such as the journey from the detention unit to the airport. In addition to non-refoulement, the monitoring should take into account matters related to detention, health, vulnerability, the rights and best interest of child, and aspects related to the humane implementation of the return.

The transparency of the control system would be enhanced by the fact that the Ombudsman for Minorities would report on the results of monitoring in the Ombudsman's annual report. The Ombudsman for Minorities could also give proposals, recommendations, opinions and advice on the enforcement of removals from the country.

### The monitor cannot interfere with enforcement

Powers to intervene in the enforcement of returns, the use of force or the date of returns was not proposed for the supervisory authority. There is no requirement to change the schedules or enforcement methods of returns to suit the needs of monitoring. The monitoring of returns would also be possible without prior notification to the police or border control authorities. The Ombudsman for Minorities was to be responsible for making the travel arrangements for monitors.

### A question of resources

The Government proposal did not address the resource problem created by the Ombudsman's new task. The Ombudsman for Minorities had initially estimated that it would not be able to carry out the monitoring of returns in the effective manner required by the Directive with the resources available to it. Rather, the organisation of monitoring would require one additional full-time employee. The Government proposal left the discussion and resolution of the resource issue until the details, actual workload and start date of the monitoring activities were known.

The question of resources was also raised at the Committee hearing. In its report, the Administration Committee stated that it is important for the implementation of the monitoring system to ensure the availability of sufficient resources for the discharge of the monitoring duties of the Ombudsman for Minorities. The Committee also pointed out that the multiannual programme of the European Union's Migration and Asylum Fund could be used for setting up and launching the monitoring activities. The Employment and Equality Committee considered it necessary for the Ombudsman for Minorities to be equipped with sufficient resources for the Ombudsman's monitoring duties. Regardless of the Committees' opinions, no additional resources were granted for the monitoring duties for the first few years. Rather, the operations were launched with project funding. Indeed, the Ombudsman's monitoring activities have been considerably hampered by the availability of human resources.

### Broader right of access to information

The Government proposal required closer cooperation and better exchange of information, especially between the police, the detention unit and the Ombudsman for Minorities, with the exchange of information also covering access to the information required for monitoring activities in future. An appendix was added to section 208 of the Aliens Act, according to which the Ombudsman was also to be given, upon request, any other information necessary for monitoring the enforcement of removals. The purpose was to secure the Ombudsman's rights of access to sufficient information for carrying out the effective oversight referred to in section 152b of the Act. Such information would include, for example whether a foreign national is going to be removed from the country under escort.

On the basis of the information received, the Ombudsman for Minorities would then select the cases whose enforcement it would like to monitor. The police or border control authorities were to provide the Ombudsman for Minorities with information on the details of the enforcement. When selecting the subjects of monitoring, the Ombudsman for Minorities would take into account, for example the needs of vulnerable individuals, medical aspects, family situations, the probability of the use of force and information on potentially difficult destinations. In assessing the need for monitoring, the Ombudsman for Minorities could take into account information received from NGOs, detention and reception centres, as well as from the police or border control authorities and the assistants of returnees.

An appendix to addition to the Detention Act<sup>11</sup> was also proposed in this context to secure the efficiency of monitoring. This goal was nevertheless implemented with a separate amendment passed at the end of 2014<sup>12</sup>, confirming the right of the Ombudsman for Minorities to visit detention units and have confidential discussions with detained foreign nationals.

The Government proposal also proposed an amendment to the Act on the Ombudsman for Minorities and the National Discrimination Tribunal, adding the monitoring of the enforcement of removals from the country to the mandate of the Ombudsman. This amendment was not passed, and the monitoring of the enforcement of removals from the country was only added to the Aliens Act with the new section 152b, "Overseeing the enforcement of removals from the country".

## Parliamentary review

In Parliament, the amendment was discussed by the Administration Committee<sup>13</sup>. The Employment and Equality Committee issued an opinion on the matter<sup>14</sup>. Both Committees considered the organisation of monitoring to be important and felt the Ombudsman for Minorities to be the right authority for the task. The Finns Party members of the Administration Committee nevertheless opposed appointing the monitoring duty to the Ombudsman for Minorities, considering that the supervisory body should be the Parliamentary Ombudsman.

According to the Administration Committee's report, the Committee did not consider it appropriate to specify the various stages or procedures of monitoring in the Act, so as not to limit the scope of monitoring. On the other hand, the Employment and Equality Committee pointed out that the rationale in the Government proposal describes the monitoring duty on a very general level, which could give rise to uncertainty about the rights of the supervisory authority and the limits of its powers in practice. The Committee considered it important that the supervisory role and the rights and powers of the authority responsible for it should be defined in the Act or its rationale with sufficiently clarity for the smooth functioning of the authority. The Committee also felt that safeguarding the rights and best interests of child should be a key focus of monitoring the enforcement of removals. The Committee also found it somewhat problematic for the independent status of the supervisory authority that the Ombudsman for Minorities was, at the time of enactment, administratively part of the same ministry as the entities being monitored.

A new section was added to the Aliens Act to provide for monitoring the enforcement of removals from the country, *section 152b*, and section 208 of the Aliens Act was supplemented as follows:

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<sup>11</sup> Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköstä (Act on the Treatment of Detained Aliens and the Detention Unit, 116/2002)

<sup>12</sup> Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköstä annetun lain 6 ja 6 a §:n muuttamisesta (Act Amending sections 6 and 6a of the Act on the Treatment of Detained Aliens and the Detention Unit, 1343/2014).

<sup>13</sup> HaVM 19/2013 vp

<sup>14</sup> TyVL 13/2013 vp

## Section 152b Overseeing the enforcement of removals from the country

*It is the duty of the Ombudsman for Minorities to oversee the enforcement of removals from the country at all their stages.*

Aliens Act, section 208, Notifying the Ombudsman for Minorities

The Ombudsman for Minorities shall be notified of any decision under this Act to issue a residence permit on the basis of international or temporary protection, to deny admittance or stay to an alien, or to refuse entry to or deport an alien. The Ombudsman for Minorities shall also be notified without delay of any decision concerning detention of an alien. At the request of the Ombudsman for Minorities, the Ombudsman shall also be notified of any other decisions under this Act *and the necessary information required for overseeing the enforcement of removals from the country under section 152b.*

Both Frontex and various guidelines set the humanity of removal operations and respect for human rights as the primary objectives of monitoring removals. The aim of monitoring is also to increase the transparency of the activities of authorities, improve the legal protection of returnees and dispel prejudices related to the activities of the authorities. The presence of a monitor at operations is in itself considered to alleviate pressures and prevent conflicts associated with returns.

### 2.3 Establishment of monitoring operations

No dedicated resources were granted for carrying out the monitoring duty. For this reason, the Ombudsman applied for EU project funding and monitoring work was launched with funding from the SOLID Return Fund for 1 April 2014 – 31 May 2015. The project examined the police's removal procedures and established cooperation with stakeholders. The first actual monitoring operations were carried out at the end of 2014.

The development work continued with an EU Home Affairs Funds' AMIF from 1 July 2015 – 30 June 2018 when, for example national monitoring operations became established and the Office of the Ombudsman began giving the police written feedback on monitored removals and started cooperation with other Member States. The Ministry of Justice has allocated funding to the implementation of monitoring since 2017, but development of monitoring work has continued with EU project funding. The number of senior officers serving in monitoring duties has varied between two and five in 2014–2019.

Monitoring was developed without prior national operating models or experience, while actual monitoring operations were being started at the same time. The Office of the Ombudsman also sought training from abroad. The monitors made trips to Denmark and Holland to study the operations of the local supervisory authorities. These countries had transposed the monitoring aspects of the Return Directive years before Finland. The Office of the Ombudsman also studied guidelines on enforced return issued, for example by the European Committee for the Prevention of Torture<sup>15</sup> ("CPT") and Council of Europe<sup>16</sup>. Frontex, which coordinates European joint return operations, also has its own guidelines<sup>17</sup> for return operations.

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<sup>15</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 13th General Report on the CPT's activities; deportation of foreign nationals by air

<sup>16</sup> Council of Europe, Twenty Guidelines on Forced Return, 2005

<sup>17</sup> Frontex, Code of Conduct for joint return operations coordinated by Frontex

Guidelines for the monitoring were also provided by the Return Handbook issued by the European Commission<sup>18</sup>. The Handbook provides guidance on common standards and procedures for returning third-country nationals based on EU instruments, in particular the Return Directive.

In the early years of monitoring, effectiveness was thought to result from regular meetings with police administration and the work of the supervisory working group. After all, no reporting duty on monitoring operations had been imposed on the Ombudsman. Only internal memoranda were drawn up of individual monitoring operations. However, the police administration requested direct feedback also on individual monitoring operations. The practice of giving written feedback to the police was thus instituted to improve the effectiveness of monitoring. A standardised feedback form was developed at first, but was later abandoned in favour of free-form text in which key issues concerning each return operation could be highlighted. In addition to shortcomings and development suggestions, the feedback was intended to highlight the good practices and humane methods observed by monitors.

## 2.4 Fundamental and human rights in the enforcement of removals

The central task of the monitoring by the Non-Discrimination Ombudsman involves assessing the enforcement of forced returns from the point of view of fundamental and human rights.

Fundamental and human rights are universal rights shared equally by all people. Fundamental rights are enshrined in the Constitution of Finland and Charter of Fundamental Rights of the European Union. Human rights, on the other hand, are defined in international human rights conventions. According to section 22 of the Constitution of Finland, the public authorities must guarantee the observance of basic and human rights. According to international human rights bodies, the risk of violations of fundamental and human rights is especially high during enforced removal from the country.

The Police Act requires the police to respect fundamental and human rights. In exercising its powers, the police must choose the viable option that best contributes to the realisation of these rights<sup>19</sup>. The new Regulation on the European Border and Coast Guard Frontex<sup>20</sup> makes multiple references to respecting fundamental rights in operations coordinated by the agency.

The risk of violating certain fundamental rights grows during enforced removals from the country. This section discusses the realisation of key fundamental rights with regard to returns. The right to life and prohibition of torture and inhuman treatment are particularly emphasised in connection with the use of force<sup>21</sup>. Returnees have died during removal from the country because of the incorrect use of force in some European countries. Monitoring therefore pays attention to the use of force, which must always be a last resort, lawful and proportionate to the resistance. Techniques that hinder normal breathing are prohibited. Any restraints must be opened when resistance has ceased, and restraints may not be used as a precautionary measure.

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<sup>18</sup> COMMISSION RECOMMENDATION (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks

<sup>19</sup> Police Act, chapter 1, section 2

<sup>20</sup> Frontex Regulation (EU) 2019/1896

<sup>21</sup> The Constitution of Finland, 731/1999, section 7 The right to life, personal liberty and integrity

-Everyone has the right to life, personal liberty, integrity and security. No one shall be sentenced to death, tortured or otherwise treated in a manner violating human dignity.

The established practice of the Constitutional Law Committee has stressed that only trained personnel have the right to use force and the limits placed on the use of force by fundamental and human rights must be addressed in training. Individuals strongly opposed to being returned must be treated appropriately and with respect for their human dignity even in difficult situations. Inhuman treatment can take other forms besides the excessive use of force, such as neglecting certain basic needs like the need for food and drink.

The special needs of vulnerable returnees, such as the sick and returnees with disabilities, must be identified and taken into account in the planning and implementation of the return. The availability of necessary medication must be ensured. The person to be returned must be fit to travel, and CPT recommends using a Fit-to-Travel certificate for all returnees. Providing appropriate clothing is also included in showing respect for human dignity. For example, no one should travel in sandals in the winter.

The right to protection of property and, at the same time, human dignity gives returnees the right to take appropriately packaged belongings with them up to the limit permitted by the airline. According to the National Police Board's guidelines, returnees should be afforded the opportunity to make arrangements for any belongings they have to leave behind.

Freedom of religion includes the right to manifest and practise one's religion. This must be taken into account in return operations, for example in the planning of meals.

The protection of family life is enshrined in the European Convention on Human Rights<sup>22</sup> and the Constitution of Finland<sup>23</sup>. Return journeys must therefore be arranged so that families can travel together and also sit as close as possible to each other in the means of transport. According to the UN Convention on the Rights of the Child, the best interests of the child must be a primary consideration in all actions concerning children undertaken by the authorities<sup>24</sup>. Children must be treated in accordance with their age and their special needs must be taken into account. Games or other activities can be provided to entertain children during the trip. Sufficient nourishment and possibilities for changing nappies must be provided for small children during the journey. For example, mothers must be offered a private space for breast-feeding their babies. If it is necessary to use force against the parents, their children must be moved to another room so that they will not have to witness it.

## 2.5 Monitoring in practice

By law, it is the duty of the Ombudsman to oversee the enforcement of removals from the country at all stages. In the first instance, this means that the Ombudsman has the right to oversee enforcement from the deportation interview until handover in the destination. Overseeing removals at all their stages also means that the monitors have unrestricted access to all situations, spaces and information essential for oversight. The monitor follows, observes and records the activities of the returnee and their escorts<sup>25</sup> for the entire duration of the enforcement.

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<sup>22</sup> European Convention on Human Rights, 63/1999, Article 8

<sup>23</sup> Constitution of Finland, 731/1999, section 10

<sup>24</sup> Convention on the Rights of the Child, Article 3; Return Directive, Article 5; EU Charter of Fundamental Rights, Article 17

<sup>25</sup> The Non-Discrimination Ombudsman has monitored a small number of returns involving the Finnish Border Guard. Through monitors appointed by Frontex, monitoring has also been extended to return operations arranged by the authorities of other countries. The Non-Discrimination Ombudsman has mainly monitored return operations conducted by the police.

Monitors make notes of their observations, particularly from the perspective of the realisation of the returnee's rights. Good practices are also recorded to reinforce and disseminate them. Monitors do not have the power to intervene in the enforcement or schedule of individual removals or the use of force. Neither can monitors prevent or interrupt returns.

Monitors pay attention to matters such as the returnee's awareness of the time of departure, giving the returnee sufficient time to prepare for the departure, taking vulnerability into account in the implementation of the return, the treatment of the returnee by the escorts, and the overall implementation of the return by the leader of the escorts. Other matters to observe include the returnee's opportunities to communicate with their attorney and family members or close acquaintances, the arrangement of interpreting and the escorts' communication with the returnee, the returnee's chance to take luggage with them, taking the returnee's health and nutrition into account, using force only as a last resort and the proportionality of the use of force, and the competent use of coercive measures and means of restraint. The monitor can also talk to the returnee during the journey if circumstances permit.

If the monitor monitors the entire return operation from pickup to handover at the destination, the monitoring mission ends when the authorities of the country of return meet the returnee and approve their entry. The monitor can then give verbal feedback to the escorts. After the return, the monitor will give written feedback to the police and the National Police Board, and the Office of the Non-Discrimination Ombudsman has regular meetings with the Administration. Monitors also attend the police's escort and escort leader training to speak about monitoring, the role of the monitor and taking fundamental and human rights into account in the enforcement of removals. In addition to the police, the Office cooperates with the border control authorities, district courts, reception centres, detention units and the attorneys of returnees.

## 2.6 Focus of the monitoring

The performance of the Non-Discrimination Ombudsman's monitoring duties is only possible if the Ombudsman is informed of planned removals from the country. The obligation to monitor removals is nationwide, so effective cooperation and communication is required with all police departments. Monitoring also requires access to the necessary background information on the returnee, such as information related to legal status or vulnerability.

The police must provide the Non-Discrimination Ombudsman with the travel plans of persons to be removed from the country in advance, for example on Frontex's joint return flights, national charter flights and individual removals on scheduled flights or other means of transport. The monitors then select cases for closer scrutiny and partial or complete monitoring from the travel plans. Monitors conduct background research in the Register of Aliens and district court detention decisions to select cases for monitoring, obtain documents and contact parties such as the police, detention and reception unit staff, and health care services. Monitors can also obtain information from organisations and religious communities, as well as by contacting the attorneys, support persons and family members or close acquaintances of returnees. Only in rare cases do the returnees themselves have the ability or opportunity to contact the Office of the Ombudsman.

Background research and communications help build and maintain an up-to-date picture of removals, even though the Non-Discrimination Ombudsman does not have the right to, e.g. interrupt or postpone removal from the country or change decisions made by another authority (e.g. the Finnish Immigration Service).

The Ombudsman has mainly monitored escorted returns, as they have been thought to entail a higher risk of rights violations than other forms of return. Monitoring is focused on the returns of vulnerable individuals and on the returns, which are carried out after a previous return has been interrupted due to resistance by the returnee. The Ombudsman also seeks to monitor returns in which resistance and consequent use of force by the police is expected. Families with children, women travelling alone, victims of human trafficking and the physical and mental health of the returnee are given particular attention in the assessment of vulnerability. Challenging destination countries also play a significant role in monitoring. To date, the resources provided for monitoring have not been sufficient to monitor, for example returnees leaving voluntarily with assistance from the IOM.

All Frontex-funded joint return flights in which Finland participates are accompanied by a monitor if permitted by the available resources. Most national charter flights, for example to Afghanistan, have also been accompanied by monitors.

As the Non-Discrimination Ombudsman only monitors a small fraction of returns, it should be borne in mind that direct conclusions about the police's removal activities as a whole cannot be drawn on the basis of the statistics and data available on monitoring. Returns estimated to be the most challenging are often selected for monitoring. Based on the observations made to date by monitors, however, development needs can be identified in both the effective monitoring system required by the Return Directive and the enforcement of removals from the country.

## 2.7 The escort reports by the Police

The Non-Discrimination Ombudsman can complement the information obtained from monitoring trips made by monitors by studying the escort reports drawn up by the police. The police prepare an escort report on each escorted removal or removal attempt. At the beginning of the Ombudsman's monitoring duties, the Ombudsman gave the police feedback on the varying and incomplete contents of the escort reports. It was difficult to form an overall picture of the course of the returns on the basis of the reports. The National Police Board issued instructions on the contents of the reports in its regulation on the distribution of responsibilities<sup>26</sup>. The escort report must describe the different stages of the escort mission to give an overall picture of its course. The Helsinki Police Department monitors the quality of the reports.

The quality of reporting has improved significantly in recent years. According to the regulation, escort reports must be delivered to the Non-Discrimination Ombudsman. High-quality reports also provide opportunities for the police to develop its operations and are important for the legal protection of the police, especially when the activities of escorts are criticised. High-quality escort reports can also play a role in disseminating good practices.

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<sup>26</sup> National Police Board Regulation, Division of responsibilities for the enforcement of decisions concerning the removal of aliens from the country, POL-2017-5403, validity 1 October 2017 – 30 September 2022.

## 2.8 Post-return monitoring

The Non-Discrimination Ombudsman has received requests that the return monitor could also keep an eye on the situation at the destination after the handover of the returnee. However, monitors have no jurisdiction on the territory of foreign states, no right of access to information, and no possibility of observing what happens to returnees after they have been handed over to the authorities of the country of return. Furthermore, the security situation is so poor in some countries of return that the monitor and escorts leave the country as soon as possible after handing the returnees over.

The Ombudsman or other Finnish authorities thus receive information about what happens to returned persons after their handover only in exceptional cases. The need for post-return monitoring has been discussed at both national and EU level. In particular, it would be important for decision-makers to be informed of post-return circumstances in order to ensure that negative asylum decisions do not infringe the principle of non-refoulement. There is currently no post-return follow-up system in place. The Non-Discrimination Ombudsman has considered it important to examine whether post-return follow-up would be possible to arrange, and how and by whom it should be implemented.

## 2.9. International monitoring cooperation

The monitoring of enforced returns at the level of the European Union was enhanced in 2016 by the Regulation on the European Border and Coast Guard Agency Frontex<sup>27</sup>. It states that each return operation conducted in cooperation with Frontex must be accompanied by a monitor, and the Member States also established a joint pool of monitors within Frontex. The two monitors from the Non-Discrimination Ombudsman have been appointed to the pool of monitors.

A new Regulation on the European Border and Coast Guard Agency was adopted in November 2019<sup>28</sup>. It consolidates the monitoring of returns as a permanent part of joint European return operations and clarifies the procedure by which the Agency and Member States agree on providing monitors for the Agency. So far, the Non-Discrimination Ombudsman has been called from the monitor pool on four occasions to monitor the activities of the German and Swedish authorities on joint return flights organised by these countries.

Since 2016, the Ombudsman has participated in the Forced Return Monitoring (FReM) projects coordinated by the International Centre for Migration Policy Development (ICMPD). The projects have launched and developed the operations of Frontex's pool of monitors, monitor training, reporting and the national monitoring of Member States. A total of 22 European countries are participating in the FReM III project running until 2021 in cooperation with Frontex's Fundamental Rights Officer and the European Union Agency for Fundamental Rights (FRA).

All Finnish monitors have completed the basic training for European monitors required by the Frontex Regulation. A monitor employed by the Non-Discrimination Ombudsman has also served as an instructor for European monitors and has given presentations on monitoring and the duties and role of the monitor at training sessions organised by Frontex for escort leaders from various countries.

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<sup>27</sup> (EU) 2016/1624

<sup>28</sup> (EU) 2019/1896

International cooperation has increased knowledge and understanding of European return operations and has had a significant impact on the development of national monitoring. Lessons and influence have been obtained from the established practices of countries with more experience. In addition, the training sessions have improved the monitors' fundamental rights competence and taught them to identify particularly those risks of rights violations that can be realised during removal operations.

The monitoring is based on a common European framework, standards, good practices and uniform procedures. International cooperation establishes direct contacts with the supervisory organisations of other countries. Monitors have the opportunity to observe best practices in other countries and disseminate them in connection with the development of national return activities and monitoring.

## 2.10 Monitors' well-being at work

The work of a monitor can be both mentally and physically stressful. The physical stress is primarily caused by the long hours of surveillance work and working at night, which can be difficult to reconcile with normal office hours. All Finnish police departments can enforce returns. This can mean long monitoring trips for monitors. Monitors frequently set out in the early hours of the morning, and the return trips can last nearly 24 hours including transit. The return trip can start in another locality, such as Oulu, where the monitor must then travel in advance. In practice, monitors can thus have very long working days lasting through the night without any dedicated breaks. The work is very time-intensive, especially during returns to third countries.

Monitoring can also be psychologically stressful. Monitors sometimes have to observe the use of force and also witness human suffering and disappointment caused by the return. Monitors have access to counselling to process the stress caused by their work. Occupational health care is also involved in supporting the monitors' well-being at work. The monitoring team plays an important role in releasing stress. After a challenging return, it is important to discuss the experiences in a safe environment.

When the monitoring duty was appointed to the then Ombudsman for Minorities by the amendment passed in early 2014, no dedicated resources were allocated to this. Rather, the operations were developed with project funding. The provision of sufficient, permanent resources for monitoring would be of paramount importance also from the perspective of well-being at work. It should be possible to assign two monitors to long return operations and operations with several returnees. The possibility to share the physical and mental burden of monitoring between several monitors would require an increase in permanent resources.

## 2.11 Monitoring activities in 2014–2019

A total of 189 return operations were monitored at least until exit from Finland in 2014–2019. More than 30 monitoring operations have been conducted annually on average, although the volumes have varied between years according to the resources available for monitoring.

### Removals monitored by the Non-Discrimination Ombudsman, 2014-2019:

Monitored flights/departure phases	2014	2015	2016	2017	2018	2019	Total
National charter flight	-	7	6	6	6	7	32
National scheduled flight	1	1	3	4	13	9	31
National hybrid flight	-	-	-	-	1	-	1
Frontex joint return (national monitoring)	1	5	3	8	9	6	32
Frontex scheduled flight	-	-	-	-	2	1	3
Frontex pool monitoring	-	-	-	2	1	1	4
Handover procedure at the border	-	-	-	-	-	1	1
Departure stage monitoring	5	7	10	16	38	9	85
<b>Total</b>	<b>7</b>	<b>20</b>	<b>22</b>	<b>36</b>	<b>70</b>	<b>34</b>	<b>189</b>

The Aliens Act gives the Ombudsman the opportunity to monitor all returns. The Non-Discrimination Ombudsman has focused on escorted returns, as they have been estimated to entail an increased risk of rights violations. The term “forced return” is often used in everyday language and in the media. In such situations, an enforceable removal decision has been made for the individual, but they have not left the country of their own volition and/or the police have assessed that it is necessary to escort the individual to the destination country in order to ensure the safety of the flight or returnee.

Around 45 per cent of the 189 monitoring operations conducted in the first six years were limited to the departure stage. In these cases, the monitor did not board the return flight, but for instance observed the returnee's pick-up from the detention unit or reception centre and accompanied the returnee until they and their escorts were seated on the aircraft. Monitors accompanied flights until the transit terminal or handover at the destination in roughly 55 per cent of monitoring operations. In addition to these, one removal carried out as a “surrender procedure” was monitored at the Finnish-Russian border. A monitor also attended one departure stage in which the returnees were taken to a train bound for Russia.

In the monitored returns, approximately 20 per cent of the returnees were women and 80 per cent men. Slightly more than 20 per cent were minors. Nearly all of the minors were returned together with their custodian or custodians. Returns were monitored until handover in 28 countries of return in the Nordic Countries, elsewhere in Europe, the Middle East, Asia, Africa and North America. The most common destinations for returns monitored by the Non-Discrimination Ombudsman were Iraq, Afghanistan and Albania.

A total of 1 134 individuals were returned in the 189 operations monitored in 2014–2019. The return of 34 of these returnees was interrupted. Especially many interruptions occurred in 2018, and the destination of these operations was mostly Iraq. Many planned returns were also cancelled in the same year. In addition to the 70 returns monitored by the Non-Discrimination Ombudsman, preparations were made for 30 other operations, but these returns were cancelled before departure, for example due to the returnee's state of health, disappearance, new asylum application or an enforcement prohibition issued by a court. Even those returns that were successful were in many cases very challenging, since many Iraqi returnees strongly resisted their removal from the country. In October 2018, the Iraqi authorities announced that Iraq will henceforth only receive voluntary returnees and citizens guilty of offenses.

Vulnerable individuals, such as victims of human trafficking, physically or mentally ill persons, families with children or single-custodian families were returned in approximately half of the operations monitored by the Ombudsman. In some cases, the individual being returned belonged to several of the aforementioned categories.

It is not possible to draw any conclusions on the police's overall removal operations on the basis of the monitoring statistics. This is due to several factors. The Non-Discrimination Ombudsman only monitors a small fraction of returns. There are also differences in the statistical methods used by the police and in monitoring. The police keep statistics of returns according to the number of persons, while the Non-Discrimination Ombudsman counts return operations, each of which can involve several returnees. The most challenging returns are often chosen for monitoring, where the probability of using force is higher than normal.

## 2.12 Timeline – monitoring as part of social change

The return situation is linked to surrounding society and the decision-making and social changes taking place in it, as well as to the decisions made in foreign policy and policing. International phenomena and the practices of countries of return, along with other matters beyond the control of the police, also affect the enforcement of removals. All of this has an impact on who is being returned and where, which in turn shapes monitoring. The big picture of each year's return operations can only be seen in retrospect. This means that you cannot do monitoring in advance "for a rainy day". Rather, the removal situation and monitoring needs can sometimes change very suddenly.

Monitoring operations were launched practically from nothing in 2014. The early days were very much a learning experience. However, the great changes taking place in society were quickly reflected in the police's removal operations and consequently in monitoring. This chapter discusses the development of monitoring activities as part of social change.

## Year 2014 – a year of learning

The appendix to the Aliens Act assigning the monitoring duty to the Ombudsman for Minorities<sup>29</sup> entered into force on 1 January 2014. The task was begun with support from the EU SOLID Fund. In the early phases, monitors studied the police's removal activities and examined the role of detention and reception units in removals. The monitoring of the departure phases of return operations was launched in 2014, and monitors accompanied one Frontex joint return flight to Nigeria. One scheduled flight to Morocco was also monitored. Those early days were a time of lessons learned. There was no prior experience of official, statutory monitoring work carried out by external parties in Finland. Monitoring was new for both parties: the monitors and the monitored. Establishing appropriate practices took its time. We learned through experience that the monitoring without advance warning requested by some NGOs was not possible in practice, and every monitoring trip requires cooperation with the police.

## Year 2015 – Albanians returned on charter flights, major increase in the number of asylum seekers

The number of asylum seekers grew rapidly and a record number of more than 32 000 asylum seekers arrived in Finland during the year.

Finland used national charter flights to return Albanian citizens, most of whom had received a negative asylum decision. An exceptional number of returns was carried out on national charter flights. The Ombudsman monitored six charter flights to Albania in 2015. There were many families with children among those being returned. The flights were typically very calm, and there was no need to use force except in a few individual cases. Monitors observed the use of coercive measures and/or means of restraint in 20 per cent of monitored return operations during the year. The most significant structural change in monitoring was the establishment of the supervisory working group for monitoring referred to in the Government proposal.

## Year 2016 – Voluntary charter returns to Iraq

In May 2016, the Finnish Immigration Service updated its guidelines for Afghanistan, Iraq and Somalia, based on the security situation in those countries. The Aliens Act was tightened, for example by repealing the provision on humanitarian protection. Both the ratio and total number of negative asylum decisions increased significantly.

Finland signed a joint declaration on voluntary and involuntary returns with Afghanistan in order to enhance the effectiveness of returns after negative asylum decisions. An increase in returns from Finland to Afghanistan was to be expected.

According to police statistics, 1 675 people were returned under escort in 2016<sup>30</sup>. The majority of these were Iraqis who had interrupted the asylum process on their own initiative and wanted to return to their country of origin. The police organised more than 10 charter return flights for them during the year. The Ombudsman monitored 18 escorted return operations involving a total of 89 persons. In addition, monitors accompanied four charter flights that returned 341 people to Iraq.

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<sup>29</sup> With the enactment of the new Non-Discrimination Act, the name of the Minority Ombudsman was changed to Non-Discrimination Ombudsman as of 1 January 2015.

<sup>30</sup> PolStat police statistics

At the request of the police and in order to increase the effectiveness of monitoring, the Office of the Ombudsman started giving the police written feedback on each monitored return operation.

Towards the end of the year, the police increasingly began to return Iraqi and Afghan asylum seekers who had been given a negative asylum decision. Some individual Afghans had been returned on scheduled flights, but the first national charter flight to Afghanistan was made at the end of the year. Only the departure phase was monitored since there had been a delay in obtaining the required visas for Afghanistan.

The Non-Discrimination Ombudsman joined the European Forced Return Monitoring II project (“FReM project”) coordinated by the ICMPD. The aim of the project was to develop the independent and transparent monitoring of returns required by the Return Directive.

## Year 2017 - Charter flights to Afghanistan, civic activism gained force

Efforts were made to improve the efficiency of removals at both the national and EU level. The Frontex Regulation adopted in 2016 required the presence of a monitor and increased the need for monitoring. Giving written feedback on monitoring to the police became standard practice.

In January 2017, the FReM II project organised the monitor training required by Frontex, in which the monitors of the then Ombudsman for Minorities’ Office participated. The personnel who completed the training were assigned to Frontex’s pool of monitors.

The police returned 554 people under escort in 2017. The Non-Discrimination Ombudsman monitored 36 return operations, which removed 118 people from Finland. The figure also includes two monitoring operations in which the Non-Discrimination Ombudsman’s monitor participated as a representative of the pool of monitors coordinated by Frontex. One of these was a return flight to Kosovo organised by Germany and the other a Swedish operation to Afghanistan. The Swedish return operation did not involve any returnees from Finland.

The increase in negative asylum decisions and the related removal decisions, as well as the return flight to Afghanistan organised by the Helsinki Police Department, led to an increase in civic activism and media interest. Activists organised demonstrations for and against the returns at the airport, on Helsinki Railway Square and in front of the Helsinki Police Department, among other places. Some demonstrations involved concrete attempts to stop the returns. This led to the police observing even stricter secrecy in return operations and, in some cases, even monitors had difficulties in obtaining information about police plans and their changes. The Non-Discrimination Ombudsman began to receive a great deal of communications from activists defending the rights of people being removed from the country. Their criticism was often directed at the fact that the returnees were not informed of their travel date in advance. Feedback was also given on the practice of restricting the contacts of returnees and the fact that not all returnees were able to take luggage with them. The monitors also drew attention to these shortcomings and gave feedback to the police. Shortcomings were also identified in interpreting.

The escorted return operations of Iraqis involved a great deal of challenging situations. Persons being returned to Iraq often opposed their return both verbally and physically. Coercive measures and/or means of restraint were used in approximately 40 per cent<sup>31</sup> of monitored return operations and interrupted return attempts.

### Year 2018 – returns to Iraq grow more difficult

The Ombudsman had a record number of five monitors available, who monitored 70 operations. Prepared returns were repeatedly interrupted and cancelled, making it difficult to allocate the Ombudsman's monitoring resources. Verbal and physical resistance and the consequent use of coercive measures and/or means of restraint occurred in 40 per cent of the monitored return operations. In the most challenging situations, the destination country was most often Iraq or Afghanistan. In October 2018, Iraq announced that it will only receive voluntary returnees and convicted offenders in future. Returns to Iraq decreased markedly.

### Year 2019 – Challenging destinations, vulnerability, returns of victims of human trafficking

Iraq, Afghanistan, Somalia and Iran all continued to present their own unique challenges as countries of return in return operations monitored by the Non-Discrimination Ombudsman. Some of the returnees also put up considerable resistance.

In 2019, monitoring drew attention to the return of vulnerable people from Finland to southern European countries. The returnees included victims of human trafficking, and some of them suffered from physical or mental illnesses or injuries. Returnees belonging to this category often had protected status or, for example, a residence permit based on family ties in the country to which they were returned.

## 3. Ombudsman's observations

The monitors record both good practices and subjects of complaint in their written feedback (given since 2016). The most common remarks concerned shortcomings in interpreting or the fact that the actual date of departure came as a surprise to the returnee. In such cases, the returnees rarely had the opportunity to put all of their affairs in order before leaving the country. The monitors have also drawn attention to the fact that the returnee's contacts were restricted in some cases, so that they did not even have the opportunity to contact their attorney in the asylum process. There were deficiencies in safeguarding access to medication in the early years of monitoring, principally due to unexpected departures. According to the monitors' findings, many practices have improved in their consideration for fundamental rights over the past years.

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<sup>31</sup> See footnote 40.

31 See footnote 40.

### 3.1 Ensuring access to information for monitoring

The Non-Discrimination Ombudsman has very extensive rights of access to information. By law<sup>33</sup>, the Non-Discrimination Ombudsman has the right of access to information necessary for the performance of the Ombudsman's monitoring duties. This also applies to confidential information. When monitoring the enforcement of removals was added to the competence of the Non-Discrimination Ombudsman, particular attention was paid to access to information so that the monitoring would be possible to carry out in practice. As a result, an obligation was added to section 208 of the Aliens Act to provide the Non-Discrimination Ombudsman with the information necessary for monitoring the enforcement of removals from the country upon request.

The Ombudsman's right of access to information was also recorded in a National Police Board regulation<sup>34</sup>, which entered into force on 1 October 2017. The regulation contains a list of matters to be included in the notification. The information to be reported to the Ombudsman include the name of the person to be returned, the time of departure, and the flight data if the removal is to take place by airplane. The regulation also instructs police to contact the Non-Discrimination Ombudsman if the return operation is expected to be particularly challenging.

When monitoring began in 2014, the situation was new to all parties involved. Although the police took a constructive attitude to the monitoring and cooperation with the Ombudsman, the Ombudsman initially had difficulties in obtaining information on, for example concrete travel plans. The situation has improved over the years. The practices for notifying the Ombudsman of returns have become relatively well established at the time of writing. The Helsinki Police Department sends lists of upcoming returns to the Ombudsman twice a week. Sometimes police departments also notify the Ombudsman of planned or known returns by email. The information given to the Ombudsman in these messages is often comprehensive. The messages contain information on, for example issues related to vulnerability or risks concerning the use of force. Access to this information is of great importance for monitoring, since it allows monitoring to be targeted at those returns and gives the monitor a better opportunity to prepare for their work.

Despite these steps forward, there are still shortcomings in the notification of returns. The main challenge related to the notification obligation lies in the timeliness of notifications. The Ombudsman is still notified of some escorted removals so late that monitoring the return is impossible in practice. Notifications have sometimes been made after the removal operation has already begun, and some removals have never been reported at all. The Ombudsman requires sufficiently comprehensive information in a sufficiently timely manner in order to be able to perform the Ombudsman's monitoring duties.

The Ombudsman's comprehensive and smooth access to information has so far also been hindered by restricted access rights to the Register of Aliens (UMA). The restriction of these rights is a violation of the Non-Discrimination Ombudsman's statutory right of access to information. The Register of Aliens is managed by the Finnish Immigration Service, which determines who gets access rights to the system and to what extent.

The Non-Discrimination Ombudsman has reminded the Finnish Immigration Service that it has still not received access to all of the data available to the police.

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<sup>33</sup> Act on the Non-Discrimination Ombudsman, section 4

<sup>34</sup> Division of responsibilities for the enforcement of decisions concerning the removal of aliens from the country, POL-2017-5403

In its report, the Administration Committee<sup>35</sup> has stated that the Non-Discrimination Ombudsman's access to information should be ensured and considered it important that the statutory right of access to information be implemented in practice as well.

### 3.2 The significance of cooperation between authorities

Certain authorities have an important role to play in preparing returnees for their journey. This applies in particular to detention units and reception centres, from which returnees are often picked up for the return journey. Employees of these units can use their own professional skills to prepare individuals for return, which can facilitate departure and reduce the risk of having to recourse to the use of force in difficult circumstances.

Confidential cooperation between the police and health care professionals ensure the continuity of health care for the returnee. Informing health care personnel of the departure date sufficiently in advance gives them the opportunity to prepare medicines and instructions for the journey or have the required patient records translated for the returnee. In some cases, cooperation between authorities is needed to ensure continuity of care. Cooperation between authorities is particularly important for vulnerable returnees, such as victims of trafficking in human beings. These returnees may have special needs that require cooperation between authorities both in Finland and in the country of return.

According to the monitors' findings, cooperation between authorities has improved in 2014–2019. In the early days of monitoring activities, for example, the detention unit was not always aware of the returnee's departure date. Cooperation has improved considerably in this respect. The police do not always have sufficient information on the health of returnees.<sup>36</sup> That information is relevant to the planning and implementation of the return or ensuring continuity of care.

### 3.3 Use of force by the police

Some individuals being removed from the country resist being returned. The law allows the police to use force if the returnee seeks to prevent the enforcement of removal through resistance. The police's right to use force is based on the Return Directive, national laws, and the regulations and guidelines issued by the National Police Board.

According to the Return Directive, force [*coercive measures*] can be used as a last resort for the implementation of removal if the returnee resists removal. The coercive measures must nevertheless be proportionate and may not involve excessive use of force. Coercive measures must be employed according to national legislation, and with respect for the returnee's fundamental rights, human dignity and physical integrity.<sup>37</sup>

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<sup>35</sup> Administration Committee report HaVM 10/2020 vp, concerning the Government proposal to Parliament for an act on the processing of personal data in the immigration administration and certain acts connected thereto (HE 18/2019 vp).

<sup>36</sup> The police do not have access to the client's health records. The police's removal guideline also states that the assessment of the health of returnees is the duty of health care personnel.

<sup>37</sup> Return Directive, Article 8(4), (2008/115/EC).

In national legislation, the use of force is regulated particularly by chapter 2, section 17 (Use of force)<sup>38</sup> and section 20 (Restraints)<sup>39</sup> of the Police Act. At the level of legislation, the police's use of force in the enforcement of removals and the related legal safeguards are also provided for in section 147b of the Aliens Act. According to the provision, the common guidelines set out in the Annex to Council Decision 2004/573/EC must be taken into account in removals by air. The guidelines also discuss the use of force [coercive measures]. The guidelines are intended to ensure, among other things, that coercive measures should not in any circumstances threaten the ability of the returnee to breathe normally.

The principle of proportionality plays an essential role in assessing the use of force. The police may not use any more force than justified for the performance of the task. The use of force must also be proportionate to the nature of the official duty and the danger posed by the resistance.

In addition to the use of force training provided in police basic training and in-service training, officers tasked with enforcing returns are given special training on the coercive techniques used in return operations and on the use of means of restraint. In addition to physical holds, the police can also use means of restraint during returns. These include body cuffs, handcuffs and other restraints. If necessary, the police may also use a spit hood designed to prevent spitting. By law, the coercive measure that least restricts the rights of the returnee must be selected from those available.

The police used force in approximately 40 per cent<sup>40</sup> of monitored returns in 2017–2018. Most of the cases concerned scheduled flights to Iraq or charter flights to Afghanistan. In other years (2014–2016, 2019), escort officers used force or means of restraint in about 20 per cent of<sup>41</sup> monitored return operations.

Monitors have only rarely found cause to comment on the use of force. The returnee's ability to breathe normally was compromised in two cases observed by monitors.

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<sup>38</sup> Police Act, chapter 2, section 17, subsection 1: When carrying out official duties, police officers have the right to use necessary forms of force that can be considered justifiable to overcome resistance, remove a person from the scene, carry out an apprehension, prevent the escape of a person who has lost his or her liberty, eliminate an obstacle or address an immediate risk of a crime or other dangerous act of being committed, or some other dangerous situation developing. When judging the justifiability of force, the importance and urgency of the assignment, the danger posed, the resources available and other factors influencing an overall assessment of the situation shall be taken into consideration.

<sup>39</sup> Police Act, chapter 2, section 20, subsections 1–2: The freedom of movement or action of a person subject to an official duty may be restricted by handcuffs, by the use of a plastic restraint or by other similar means if such restriction is necessary to prevent the person from escaping, to curb violent behaviour or to prevent imminent violence. The freedom of movement or action may not be restricted for any longer than necessary. The restriction must not cause danger or unnecessary pain to the restrained person.

<sup>40</sup> The percentage given does not mean that the police have used force on 40 per cent of the returnees, but that force has been used on 40 per cent of the monitored return *operations*. In an operation involving several returnees, for example, force may only have been used on one of them.

As the Non-Discrimination Ombudsman only monitors a small fraction of returns, it should be borne in mind that direct conclusions about the police's removal activities as a whole cannot be drawn on the basis of the statistics and data available on monitoring. It is precisely the most challenging return operations that are often selected for monitoring.

<sup>31</sup> See footnote 40.

A complaint was lodged with the Parliamentary Ombudsman about one case and the Parliamentary Ombudsman was notified of the other.

### 3.4 Identifying vulnerability and taking it into consideration

Vulnerable returnees are a key group with regard to the monitoring of removals. They may be children, have physical or mental illnesses, or be victims of human trafficking being returned by Finland to their country of origin or to a third country. The Ombudsman makes particular efforts to select return operations involving persons belonging to these categories for monitoring. Vulnerable returnees often have special needs that need to be taken into account in the enforcement of their return. The needs may relate to recovery periods after health care procedures before return, obtaining patient records or medicines for the return journey, interaction with the returnee, taking the needs and well-being of children into account during the journey or, for example, assessing aspects of falling victim to human trafficking.

The needs of vulnerable individuals affect the enforcement of the return in a variety of ways: the time or method of return, travel preparations and arrangements, and contacting the authorities in the country of return. These are often issues that the police responsible for the enforcement of removals is not in a position to manage on their own, and which require cooperation with other authorities. Identifying vulnerability thus requires an effective flow of information between authorities. Reception centres, detention units, health care units and the assistance system for victims of human trafficking often have the most information on the actual situation and needs of the returnees.

It has been noted in monitoring that identifying the situation of vulnerable returnees and taking their special needs into consideration requires different approaches in different return operations. Monitors have observed return operations in which the special needs of vulnerable individuals have been catered to commendably. On the other hand, monitors have found that there is still room for improvement and gaps to address in identifying vulnerable people and taking their needs into account. For example, the police have not always been aware that a returnee is a victim of human trafficking.

The identification of vulnerability is also relevant from the monitoring perspective. The more advance information the Non-Discrimination Ombudsman receives on returnees and their situations, the better it will be able to focus monitoring on this group. The Government proposal on the monitoring of removals (HE 134/2013) draws attention to the fact that the situations of vulnerable persons and aspects related to the humane implementation of returns should be taken into account in monitoring.

The Non-Discrimination Ombudsman is launching an AMIF project related to identifying and addressing vulnerability in August 2020. The aim of the project is to improve cooperation between authorities, disseminate good practices and develop procedures in order to identify the situations of the most vulnerable returnees and cater to their needs as well and comprehensively as possible in return operations and monitoring activities.

### 3.5 Information on travel dates

One of the recurring themes of the international guidelines on returns is the possibility for the person being removed from the country to prepare for the trip, pack their belongings, say goodbye to friends and family, and to put their affairs otherwise in order. It is therefore important to inform the returnee of their departure date in good time. Timely information is also crucial for the returnee's mental preparation. It can take time to adapt to the reality of return. Communication and exchange of information between the various actors support the preparation of the returnee for the journey and contribute to a more humane return that respects fundamental and human rights. In decision EOAK/4666/2018, the Parliamentary Ombudsman also drew the attention of police departments to the fact that persons being removed from the country must be given a real opportunity to prepare for removal.

According to the National Police Board's guideline<sup>42</sup>, the police must notify the returnee of the date of their removal from the country as soon as possible. If there are factors that could endanger the enforcement of the return, the head investigator can exceptionally decide not to announce the date of the return in advance.

In previous years, monitors have observed situations in which departure has come as a surprise to the returnee, which has made the situation clearly stressful and caused resistance because the returnee did not have sufficient time to prepare for departure. In some cases, the returnee's belongings have remained in Finland because they did not have time to pack them for the trip. Some asylum seekers have a job in Finland when the enforcement of their removal is initiated. The returnee must be informed of the departure date in time to be able to get their pay and transfer the money safely to the country of return. The number of surprise departures has decreased according to the monitors' observations. In some cases, however, returnees are still notified of their departure very late. If the returnee is informed of the trip the day before departure, for example, they may not have enough time to prepare.

### 3.6 Returnee's communication opportunities

Persons being removed from the country often wish to contact their relatives before starting the return trip. For example, they may need to inform their relatives of the arrival time of their flight at the departure stage so that the relatives can meet the returnee at the airport. The importance of communication is also addressed in the legislation. This applies especially to returnees who have been detained. By law, returnees housed in a detention unit who are being removed from the country must be given the opportunity to contact their relatives and meet them and other persons who they are entitled to contact<sup>43</sup>. In practice, possession of a mobile phone must thus, as a rule, be permitted for the returnee during removal from the country. This is also stated in the National Police Board's guideline<sup>44</sup>.

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<sup>42</sup> National Police Board guideline, Enforcement of a decision concerning denial of entry and deportation, POL-2019- 27213, valid for 15 July 2019 – 14 July 2024.

<sup>43</sup> Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköstä (Act on the Treatment of Detained Aliens and the Detention Unit, 116/2002)

<sup>44</sup> In its instructions on seizing mobile phones, given in the guideline "Enforcement of a decision concerning denial of entry and deportation" (POL-2019-27213), the National Police Board refers to its circular "Photography, recording and dispossession of mobile phones in connection with serving notice of a negative asylum decision and the enforcement of removal from the country", POL-2017-11035, issued on 31 May 2017.

According to the observations made by monitors, the police have in some cases restricted communication by taking the returnee's phone away in the departure stage, without giving the returnee the opportunity to make calls at a later stage either. In particular, the police have wanted to ensure the uninterrupted progress of the operation in certain return operations that have been the cause of wider public interest, concern and movement. The threshold for dispossessing returnees of their phones was relatively low. According to the monitors' observations, cases in which all communication by the returnees is prevented are becoming increasingly rare.

According to the police guidelines in force, possession of a mobile phone must, as a rule, be permitted for the returnee during removal from the country. A returnee's phone may be taken away in the security check only if its possession can justifiably be thought to endanger the police operation or the client. This decision must be made on a case-by-case basis.

### 3.7 Interpreting

There is considerable variation in the language skills of returnees. Some returnees have lived in Finland for a long time and speak fluent Finnish. On the other hand, some returnees only speak their native language and need the help of an interpreter even in everyday matters. It is of paramount importance that escort officers and returnees understand each other. The interpreter is particularly crucial in acute (health) situations, as well as in situations in which the returnee wishes to ask or needs to be explained something concerning their legal status.

As a rule, the monitors had a positive view of the use of interpreting. Their observations indicate that the police have increased the use of interpreting. The police often provide the opportunity for telephone interpreting at the departure stage, and the method is used to review both everyday and legal issues with returnees. However, monitors have in some cases pointed out a lack of interpreting in their feedback to the police. The monitors have pointed out that the use of an interpreter is an essential part of respecting the human dignity of returnees. Effective interaction makes the return operation smoother, enables catering to the special needs of vulnerable individuals, and reduces the need for the use of force.

Examples of shortcomings observed by monitors in interpreting have included situations where another returnee or, for example an employee of the detention unit has been used as an interpreter. The monitors have also drawn attention to the fact that discussions on the legal status of the returnee should be interpreted and the interpreting of service in particular should be carried out in a calm and distraction-free space. According to international recommendations, an interpreter should be present throughout the return operation if the escorts and returnees have no common language.

### 3.8 Developing escort training

Escorting returnees is a special duty and it is crucial that the police invest in the training of escort officers and leaders. The police organise several escort trainings and, as a rule, one escort leader training each year. The police also participate in training for Frontex escort teams and escort team leaders. Monitors have taken part in national training and seen its quality improve over the years.

The fundamental and human rights perspective should be reinforced further in the training. Increasing the police's understanding of the practical application of these rights to removal situations would also be appropriate. For example, identifying vulnerability, the status and rights of the child, identifying victims of human trafficking and compliance with obligations are essential aspects of the preparation and enforcement of returns. In particular, the training of escort team leaders should pay attention to the assessment of non-refoulement on a practical level. In the Ombudsman's opinion, situations and procedures related to non-refoulement should be practised in the training.

### 3.9 National escort pool

Some years ago, the police had a national escort pool to which police officers were appointed for a certain period of time. The escort pool activities were launched as an emergency readiness measure, as the police were required to return a sharply increasing number individuals who had been given a return decision in a short period of time. The arrangement was intended to be temporary. Escort team training was also increased at that time, but some of those appointed to the escort pool were sent on return duties after a very brief orientation. There were always some trained and experienced escort officers present on such operations, however.

The escort officers in any given escort team could come from different police departments and had not worked together before. In some cases, the escorts or escort team leader had not had the opportunity to obtain sufficient information on the situation of the returnee. Problems arose in interaction, for example, because the escorts did not know which languages the returnees spoke. Sometimes escorts had no information about the returnee's state of health. At times, the work of the escort team appeared uncoordinated to the monitor, and there were shortcomings in the team's internal cooperation. There were also bumps in the flow of information during the preparation and implementation of the escorted returns. The monitors found that the escort pool's activities caused challenges that did not always support the realisation of the returnees' fundamental rights.

There is no national escort pool any more, but the police are still prepared to restart the activity if necessary. From the escort pool's activities, the police gained experience of which factors are significant for the successful implementation of an escorted return. The Ombudsman considers it important that the experience gained from the escort pool activities should be taken into account in the development of removal operations.

### 3.10 Respecting the legal protection of returnees

The importance of legal protection is emphasised when an individual is subject to the usage of power of the authorities. The police are responsible for ensuring that returnees have the opportunity to exercise their rights even during the enforcement of their removal from the country. Returns are often carried out outside office hours and not all authorities are available, the behaviour of the returnee is not always predictable, and flight schedules and time constraints imposed by the authorities of the country of return often limit the police's scope of action. In enforcement situations, police officers are frequently called to make quick decisions with little information.

The police must also be able to decide in which circumstances the returnee's legal protection requires suspending the enforcement of removal. The Finnish Immigration Service has an on-call service to support police in decision-making. The service can be used to confirm the effect of factors such as new asylum applications on the situation of returnees. The police bear a considerable responsibility in such situations, as they are often the only authority present to ensure the fulfilment of the returnee's rights.

## Compliance with non-refoulement

The outcome of the asylum process is decided by the authorities, primarily by the Finnish Immigration Service and, at the appeal stage, by the administrative courts and the Supreme Administrative Court. The asylum process must be of sufficient quality to produce the correct decisions with the available information. Non-refoulement must always be taken into account in the asylum process. It is binding on all authorities, including police enforcing a removal decision. Non-refoulement is enshrined, for example in the National Police Board's guidelines, the Aliens Act, the Constitution of Finland, the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union.

According to the monitors' observations, returnees sometimes make claims and discuss fears about their post-return safety during their removal from the country. In other cases, the asylum decision can be so old that the security situation in the country of return may have changed from what it was when the asylum decision was made. In such situations in particular the first assessment and measures concerning the risk of violating the right of non-refoulement are at the responsibility of the police officers carrying out the enforcement. The National Police Board's guideline on removals from the country contains procedural instructions for these eventualities. The Finnish Immigration Service's abovementioned on-call service can also support the police in making such decisions.

## Acceptance of asylum applications

Returnees sometimes apply for asylum when they are being removed from the country. The police are always obligated to accept and register the asylum application, even if it will not stop the enforcement of the removal. The asylum application is recorded either as a new application or the information is delivered as a supplementary document to an asylum matter already pending with the Finnish Immigration Service, the Administrative Court or the Supreme Administrative Court.

The Non-Discrimination Ombudsman has monitored some cases in which the returnee has applied for asylum at the enforcement stage of removal. In most of these cases, the police have accepted the asylum application with impeccable procedure. However, the monitor was forced to give the officers feedback on the police's statutory obligations related to the acceptance of asylum applications in two monitored return operations. In one of these cases, a close relative of the returnee filed a complaint with the Parliamentary Ombudsman on the conduct of the police. In his decision (EOAK/4666/2018), the Parliamentary Ombudsman reminded the police that they do not have the right to refuse to accept an application for international protection.

## Information on the possibility of filing a complaint

The Non-Discrimination Ombudsman has noted that there are differences in the legal guarantees of returnees depending on the party that is removing the individual from the country (Frontex or the Finnish authorities).

This applies in particular to the opportunity to be informed of the possibility of lodging a complaint or appeal concerning infringements on return flights. The Finnish system also provides returnees with the opportunity to file a complaint to, for example the Parliamentary Ombudsman about the police's conduct during the return operation. However, according to the monitors' findings, returnees are not explicitly informed of this possibility.

Frontex's regulations provide for a complaints mechanism and stipulate that returnees must have easy access to information on the possibility of filing a complaint. The complaints mechanism is provided for in Article 111 of the Frontex Regulation. The purpose of this provision is to enhance respect for fundamental rights in joint return operations. According to the Article, individuals returned in joint return operations coordinated by Frontex have the right to submit a complaint about their treatment during the return. In practice this means, among other things, that returnees must be actively informed of the possibility of filing a complaint and the complaint form must be available during the operation. The complaint must relate to possible breaches of fundamental rights during the return trip and not, for example, a removal decision considered to be unjust.

The Non-Discrimination Ombudsman notes that legal guarantees must be equal for all returnees, regardless of the procedure for implementing the enforcement of their removal. It is the Non-Discrimination Ombudsman's view that the police should inform returnees of the possibility of filing a complaint to Finland's overseers of legality also on other return operations than those coordinated by Frontex.

### 3.11 Communication between authorities

Although the escorting authority is responsible for the enforcement of removals by air, the information provided and measures taken by other authorities play an important role in the police's ability to perform its duty. The Finnish Immigration Service plays a particularly important role from the point of view of the returnees' legal protection. The police use the information in the UMA register (Register of Foreigners) maintained by the Finnish Immigration Service to assess the enforceability of removal decisions. The police may also verify the enforceability of a decision from the Administrative Court or Supreme Administrative Court. The police must be able to rely on the information being correct and up to date.

The Ombudsman's monitoring has revealed shortcomings in communication between the authorities that have led to serious infringements in two cases.

#### Case 1

An individual who had been granted a residence permit by the Finnish Immigration Service the day before departure was returned from Finland to Africa in a Frontex operation carried out in 2014. According to the report requested by the Ombudsman from the National Police Board and the Helsinki Police Department, the information on the permit did not reach the enforcing police in time. The returned individual was able to return to his family in Finland after many detours and difficulties and was compensated by the State Treasury for his travel expenses and the income lost during his absence. According to the report received by the Ombudsman, new guidelines on police workflows were issued after the incident so that similar errors cannot happen in the future.

## Case 2

The Non-Discrimination Ombudsman monitored a national return flight to Afghanistan in the spring of 2019. During the return operation, issues related to the flow of information between the authorities' systems made it difficult for the police to assess the enforceability of removal decisions in real time. The removal decision of one of the returnees included in the return operation was not enforceable. However, this was not indicated by the authorities' systems, and the leader of the escort team could not obtain information on the matter, even though he attempted to investigate it before departure. The fault was due to delays in the transmission of data between authorities, especially in the UMA system. When the Non-Discrimination Ombudsman subsequently investigated the matter, it turned out that delays and disruptions associated with data transmission, downtime and updates impair the availability of up-to-date information from the systems.

As a result of the issue identified during monitoring and the investigations carried out, the Non-Discrimination Ombudsman issued recommendations to the police, the Finnish Immigration Service and the Administrative Court on improving the reliability and timeliness of their operations and systems. The Non-Discrimination Ombudsman recommended that the police should not begin the enforcement of removals from the country too close to the expiration of the deadline for applying for an enforcement prohibition. The Finnish Immigration Service was urged to look into possibilities for improving the timeliness and reliability of the UMA system together with the administrative courts. Similarly, the Finnish Immigration Agency and administrative courts were urged to investigate the possibility of creating a system for providing information on the residence status of returnees outside of office hours. The Non-Discrimination Ombudsman considers the reliability of the systems of public authorities to be an important factor, especially with regard to the legal protection of returnees.

## 4. Good practices observed during monitoring

According to the Government proposal on the monitoring of enforced removals<sup>45</sup>, the monitoring should take into account (among other things) matters related to the health of returnees, vulnerability, the rights and best interest of children, and aspects related to the humane implementation of the return. In line with the guidelines issued by the legislator, monitors have paid particular attention to these issues in their monitoring activities in the field. In their work, the monitors have identified many good practices that promote a positive attitude to fundamental and human rights in connection with returns. Some of these practices appear to be well-established procedures for the police, while other instances involve matters in which police procedures have varied. Certain individual escort teams or officers have demonstrated excellent practices in the eyes of the monitors and the law. The Non-Discrimination Ombudsman would like to see these procedures implemented as widespread practices in the enforcement of removals. These are often simple human gestures that contribute to ensuring the well-being of returnees. They also frequently decrease the level of resistance, and thus the risk of having to use force, and can give even individuals who are unwilling to return the feeling that they were treated with dignity. Monitors have given the police a lot of verbal and written feedback on good practices over the years. A compilation of such practices is provided below.

### Starting meeting

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<sup>45</sup> HE 134/2013

Monitors consider it good practice to arrange a starting meeting for return operations on both scheduled and charter flights. The meeting should be attended by the escort officers and any other authorities taking part in the return trip, such as health care professionals and the monitor. The National Police Board's guideline on removals from the country also contains instructions to this effect. Those attending the meeting will be informed of the operation's progress, persons belonging to vulnerable groups, and other matters related to the operation.

The starting meeting also gives the monitor the opportunity to learn of any last-minute changes and other information relevant to monitoring. The procedure reduces the monitor's need to ask the leader or officers of the escort team for clarifications in the middle of the operation.

## Choice of escorts

Monitors consider it good practice to take the gender and special characteristics of the returnees into account in the choice of escorts as far as possible. If the returnee is a woman, at least one of the escorts should be female. Monitors have also noted that the special expertise of individual officers, such as language skills or health care training, has also been taken into account commendably in the choice of escorts. For example, an escort who speaks fluent Arabic, Spanish or Russian is better placed to clarify everyday matters with a returnee speaking the same language. A common tongue reduces antagonism, facilitates interaction and increases trust between escorts and returnees.

## Interpreting

Authorities must provide translation or interpreting services in matters concerning denial of entry or deportation. Proper interpreting is of paramount importance for the legal protection of returnees and forms part of respecting the human dignity of returnees. Furthermore, effective communication makes the entire return operation smoother, enables catering to the special needs of vulnerable individuals, and reduces the need for the use of force. The presence of an interpreter facilitates communication between escorts and returnees.

Monitors have drawn attention to shortcomings related to interpreting on several occasions. However, the monitors have noted the good practice of including an interpreter on some return flights to Afghanistan and Iraq.

International recommendations also specify that an interpreter should be present throughout the return operation if the escorts and returnees have no common language.

## Trust between returnees and escorts

According to the monitors' observations, the fulfilment of returnees' rights and the successful enforcement of return is facilitated if the returnee has come to trust the police and understand their official duty. According to the monitors' findings, the building of trust is facilitated if the escort leader or one of the escorts is familiar to the returnee. It is not always possible to post a familiar officer as an escort. In this case, it is the monitors' opinion that even a simple meeting between the escort team leader, escorts and returnee before departure contributes to the successful implementation of the return operation. This gives the returnee the opportunity to discuss and ask questions about the upcoming trip in advance. The escorts will also gain the opportunity to get to know the returnee and orient themselves for the return trip.

The monitors have gained the impression that if the returnee trusts the police and the correctness of police procedures, it will also decrease their level of resistance and, consequently, the risk of having to use force.

### Advance review of the return journey and procedures with the returnee

Monitors consider it good practice to have a transparent discussion of the return journey in advance with the returnee. In the review, the returnee is informed in good time of the departure schedule, the course of the return operation and the right of the police to use force if necessary to carry out their official duty. Transparency gives the returnee a better opportunity to prepare for departure, adapt to the idea of returning, and often also increases their cooperation with the police, even if the returnee has previously expressed their opposition to the return. The recommendation to keep returnees up to date on the course of events during the return journey: transitions, schedules, and opportunities to dine and use the toilet, is repeated in the feedback given by monitors. That enables the returnee to prepare for each phase of the journey.

Monitors also consider it good practice to review police procedures, the consequences of non-compliance with police instructions, including the right to use force and the reasons for police procedures (e.g. aviation safety) with the returnee before the trip. This gives a transparent image of police activities in advance and contributes to building trust.

### Investing in effective interaction

Moderators consider it good practice to invest in the interaction between returnees and escorts. Over the years, monitors have noted how the quality of interaction is of great importance for the successful implementation of the return. It builds trust and creates an environment where even returnees who are on the return trip against their will can feel that they are being heard and treated with dignity. Effective communication makes the entire return operation run smoother.

With good planning and procedures, the police can enable communication between returnees and their escorts: to clarify ambiguities and contradictions, answer the returnees' questions and concerns, and seek to resolve even the most challenging situations by verbal means.

Monitors have noted that challenging situations also require good emotional interaction skills from escorts. Returnees sometimes experience strong emotional reactions to the return when it becomes a reality. In these situations, the escorts' ability to be present, monitor the returnees' state of mind and talk to the returnee contributes to the resolution of challenging situations. The monitors have the impression that this will also contribute to reducing the need for force regardless of resistance. The escorts' positive approach, constructive attitude and attempts to reach a mutual understanding in resolving challenging situations will also create better conditions for a successful escorted return.

### Taking the best interests of children into account

All authorities are obliged to take the best interests of children into account in their official duties. The best interests of the child should be taken into account at an early stage of planning the return and throughout the operation. During the return journey, the needs of children have been taken into account by, for example placing children next to their parents during transitions and on the airplane, providing them with age-appropriate stimuli (e.g. drawing equipment and magazines),

taking care of the hygiene of young children and taking the needs of children into account in connection with meals.

The monitors consider it good practice that escort teams have gone through the details of the trip with older children in an age-appropriate manner.

Monitors have observed return operations in which an adult being returned in the same operation with children has resisted removal and the police have had to use submission holds or means of restraint to secure enforcement. The monitors have welcomed the fact that, where possible, the police have directed the children elsewhere or seated them on the airplane so that the means of restraint were not visible to the children in such situations.

## Taking the returnee's health into consideration

Health care professionals are responsible for matters related to the health care of returnees. Factors to consider include ensuring access to medication and obtaining any documents related to medical procedures for the returnees to take with them. The police must also take the health of returnees into account when preparing and implementing the return. In some situations, it is necessary to contribute to the returnee's access to treatment after return. Monitors consider it good practice for the police to take the returnee's state of health or upcoming medical procedures into account in the timing of the return trip. In some situations, for example, return trips have been postponed due to medical procedures. The police have also contributed to the returnee's access to treatment after their return in some cases.

- **Presence of health care professionals on the return trip**

Monitors consider it good practice to take a health care professional on a return trip if required by the health of a returnee. Monitors have monitored numerous returns carried out on charter and scheduled flights accompanied by either a paramedic, nurse or physician to respond to the health needs of returnees. For example, if a returnee has received prolonged care in a psychiatric hospital, a psychiatric nurse from the same hospital has accompanied the returnee on the return trip. The nurse has been able to take care of the returnee's medication and support them during the return journey.

- **Taking medication needs into account**

The health care unit in which the returnee has received treatment is responsible for providing medication for the return trip. The police must also do their part to ensure that such needs are met. Monitors have found that the police have often sought to ensure that returnees, especially those suffering from chronic diseases (such as diabetes, hypertension or psychiatric conditions) whose treatment requires daily medication, are supplied with a sufficient amount of necessary medicines, such as for one or two months' needs. This gives the returnee time to arrange for their treatment and necessary medication in the country of return.

Returnees who use regular medication often need medication also during the return trip.

Monitors consider it good practice for health care units to pack the medicines needed by returnees on the return journey in separate bags marked with the name and dosage instructions of the medicine. In these situations, a health care professional possibly accompanying the returnees has been able to administer the medicines to them during the return journey.

- **Obtaining health-related documents for the return**

Some returnees have established care relationships in Finland, having either been treated for a long time in a hospital or undergone medical procedures in Finland. Their condition may have been diagnosed only after arrival in Finland, and finding the right balance of treatments for them may have taken some time. This is especially the case for returnees with chronic diseases whose treatment requires regular medication and long-term treatment. It is vital to provide the returnee with the documentation related to their health care, so that the returnee can use the information gathered in Finland on their health and need for treatment in the country of return. Monitors have witnessed varying practices in such situations over the years. Some returnees have received a treatment report on which health care measures are recorded in common medical terms so that medical/health care professionals can understand the nature of the procedures carried out. At best, the returnee has received their entire patient records translated into either English or the language used in the destination country. Monitors consider it good practice for returnees to receive at least some level of documentation of their treatments in Finland to take with them.

- **Taking health into account during the return trip**

Taking the returnees' health into account during return operations often requires careful advance planning, but often also creativity and effort from the escort team leader during the actual return journey. Return journeys sometimes extend to other continents, which makes them particularly hard on elderly, ill, or disabled returnees and those with other health-related challenges due to the length of the journey alone. Transitions and waiting times in stopover terminals can be very long, travel can take place at night, and the returnees and escort teams do not always have immediate access to food or rest. Such transit has been facilitated by means such as obtaining a wheelchair or by looking for assistive devices or calm spaces at airports so that the returnees can rest. The returnees' state of health may also change during the journey, for example due to mental stress, and returnees have been provided with the opportunity to have their health assessed by a physician in such cases.

The health of returnees can sometimes affect their behaviour or ability to interact with other people. Monitors consider it good practice that the police have sought to find ways of interacting with, for example autistic or deaf returnees in advance, or discussed means of safeguarding the well-being and sense of security of returnees discharged from a psychiatric hospital during the return trip. According to the monitors' observations, the choice of escorts is particularly important when the returnee has health needs, whether physical or mental.

## Taking the needs and wishes of returnees into account

Monitors consider it good practice to take the wishes and needs of returnees into account as far as possible during the return trip. These are often very simple things; the opportunity to call family or charge one's phone at a stopover terminal; smoke when possible or listen to music from one's own phone during a long flight. Some escort team leaders have borrowed their own phones if the returnee's phone has not worked. Taking the needs and wishes of returnees into account requires sensitivity, quick thinking and the willingness to be flexible when possible from the escort team. Such practices help returnees return with human dignity and feel that they are given dignified and equal treatment.

## Sufficient time

In their feedback, monitors have drawn attention to the fact that a relaxed schedule in preparing for and during the return journey provides better conditions for a successful return. When enough time is reserved for interviews, answering questions and packing luggage, the returnees have a better opportunity to orient themselves to departure. This will also give time to discuss the questions, concerns and misgivings of returnees in peace, reducing the psychological burden caused by uncertainty. The monitors have found that this also applies to schedules during the actual return journey. When there is sufficient time, the escorts also have the opportunity to review any unclear issues within the team and ensure that the returnees understand the issues discussed.

## Escort team leader's active interaction with the monitor

Unexpected things sometimes occur even on well-prepared monitoring trips. In these situations, the escort team leader will have to resolve matters by telephone with the Finnish authorities, for example, or with the local authorities at the receiving end. An enforcement prohibition may enter into force during the trip, luggage can get lost, or returnees can claim that they have not gotten all of their receivables in Finland. A correct assessment of the situation in such situations can have a significant effect on the monitor's ability to correctly assess the police's procedures. Monitors consider it good practice for the escort team leader to keep the monitor informed on the leader's own initiative throughout the return journey. In this way, the escort team leader will also be able to choose the best time for conversations with the monitor with regard to the operation and the leader's own work.

## 5. Measures taken by the Ombudsman

The Ombudsman has become aware of one to three serious individual cases of misconduct or suspected infringement of rights related to removals from the country on average each year. Some cases have been identified, e.g. from complaints and decisions issued by the authorities. In some cases, a monitor has been present to observe the return in person. In six cases, the Non-Discrimination Ombudsman has either filed a complaint, submitted the matter to the Parliamentary Ombudsman for review or sent the written feedback given to the police to the Parliamentary Ombudsman.

Year	Misconduct/infringement	Result/processing status
2016	<ul style="list-style-type: none"> <li>● Use of force, ability of the returnee to breathe normally</li> <li>● Vulnerable returnee</li> <li>● The Ombudsman lodged a complaint</li> </ul>	<ul style="list-style-type: none"> <li>● The Ombudsman referred the case to the Office of the Prosecutor General</li> <li>● Pre-trial investigation is underway, the Office of the Prosecutor General has requested legal aid, e.g. from the returnee's country of origin</li> </ul>
2017	<ul style="list-style-type: none"> <li>● Detention and separation of a mother and her child during the preparation of removal</li> <li>● Vulnerable returnees</li> <li>● The Ombudsman lodged a complaint</li> </ul>	<ul style="list-style-type: none"> <li>● Parliamentary Ombudsman's decision 30.12.2019 EOAK/3417/2018</li> <li>● Police acted incorrectly</li> <li>● The National Police Board's guideline on the enforcement of a decision concerning deportation (POL-2018-24625) is incomplete</li> <li>● PO obligated the National Police Board to clarify/supplement the guidelines with regard to the priority of the best interests of the child</li> </ul>
2018	<ul style="list-style-type: none"> <li>● The police did not accept an application for asylum during the enforcement of a removal</li> <li>● A returnee did not have the opportunity to prepare for departure</li> <li>● The returnee's close relative lodged a complaint on the matter</li> <li>● The Ombudsman sent the written feedback given to the police to the Parliamentary Ombudsman for information</li> </ul>	<ul style="list-style-type: none"> <li>● Parliamentary Ombudsman's decision 13.6.2019 EOAK/4666/2018</li> <li>● The Parliamentary Ombudsman considered the conduct to be unlawful</li> <li>● The police does not have the right to refuse to accept an application for international protection</li> <li>● Furthermore, the Parliamentary Ombudsman also drew the attention of police departments to the fact that persons being removed from the country must be given a real opportunity to prepare for removal</li> </ul>

2019	<ul style="list-style-type: none"> <li>Enforcement of a return according to the requirements set in the asylum decision</li> <li>The Ombudsman asked the Parliamentary Ombudsman to assess the correctness of the enforcement</li> </ul>	<ul style="list-style-type: none"> <li>Parliamentary Ombudsman's decision 14.5.2020 EOAK/2441/2019</li> <li>According to the Parliamentary Ombudsman, the police and Finnish Immigration Service did not break the law, since 1) connecting flights to a safe area were available; 2) the individual had been given a travel allowance; and 3) the threat experienced by the individual in the city of return was not connected to the activities of the authorities who met the individual at the airport</li> </ul>
2019	<ul style="list-style-type: none"> <li>Ability of a returnee to breathe normally in connection with the use of force</li> <li>Vulnerable returnee</li> <li>The Ombudsman sent the written feedback given to the police to the Parliamentary Ombudsman for information</li> </ul>	<ul style="list-style-type: none"> <li>The Ombudsman noted in the feedback given to the police that addressing shouting by use of physical coercion can lead to risky situations and may obstruct the ability to breathe</li> <li>Persons resisting return by shouting can be calmed by talking to them and reassuring them</li> </ul>
2019	<ul style="list-style-type: none"> <li>A family with children was left in unsafe circumstances as a result of a transfer made under the Dublin Regulation</li> <li>Vulnerable returnees</li> <li>Rights and interest of the child</li> <li>The Ombudsman sent the written feedback given to the police to, e.g. the Parliamentary Ombudsman for information</li> </ul>	<ul style="list-style-type: none"> <li>The Ombudsman suggested that the authorities responsible for transfers in Finland should develop ways to ensure the reception of transferred persons and the continuity of services and support in the host country</li> </ul>

## 6. Conditions for an efficient and effective monitoring system

This chapter summarises the key elements that create the conditions for high-quality, effective monitoring, along with the means of influence available to monitoring authorities. The chapter also summarises some of the improvements achieved with the monitoring tools given to the Ombudsman.

## 6.1 Conditions for efficient and effective monitoring

### Access to information

Comprehensive and timely access to information from the police, the Finnish Immigration Service and the UMA system is a basic requirement for successful monitoring. The Ombudsman needs information on planned returns and the underlying factors of enforced returns. Examples include notifications from destination countries that they will not accept returnees at a given time, or that a destination country will only accept returnees with a specific profile. The monitoring authorities should be separately informed of vulnerable returnees and their situation. Access to information has so far been hindered by restricted access rights to the Register of foreigners (UMA). The restriction of these rights is a violation of the Non-Discrimination Ombudsman's statutory right of access to information.

### Cooperation between authorities

For monitors to be able to assess the situation of returnees, they must be adequately informed about their circumstances by other authorities. This applies in particular to the police, detention units and reception centres, as well as the health care services. These authorities have an important role to play in preparing returnees for their journey.

### Nationwide monitoring

The enforcement of removals by all Finnish police departments must be monitored to ensure the credibility of the monitoring system. On the other hand, beginning monitoring at the returnee's current whereabouts burdens the small monitoring team by increasing the time required for monitoring trips.

### Focus of monitoring

Since not all returns can be monitored, monitoring must be targeted on the basis of key monitoring criteria. Such criteria can include the vulnerable status of returnees, resistance expected on the basis of a risk assessment and possible use of force, along with the aim of nationwide monitoring. Monitoring is also targeted at returns that are subject to public debate and in which the presence of a monitor is desired. In addition, social changes in both Finland and the countries of return are taken into account in targeting monitoring.

### Making use of international cooperation

National monitoring benefits from keeping track of the developments in European monitoring activities. Cooperation with European monitoring organisations in sharing information, experiences and good practices contributes to the continuous development of national monitoring.

### Well-being at work and resources

Monitoring can be both mentally and physically stressful work. The long and abnormal hours of monitors pose their own challenges in monitoring activities. Effective monitoring requires the provision of sufficient resources.

## 6.2 Means of influence through monitoring

### Feedback to the police

According to the feedback received by the Ombudsman, the police consider the current form of feedback to be very informative and useful for the development of removal activities. It is also used in training. The feedback has also led to certain structural changes. The Ombudsman has regular discussions with the police on what the feedback should be like to best serve the development of police activities and contribute to taking the fundamental and human rights perspective into account.

### Regular meetings with the police

The monitors of enforced removals and the Non-Discrimination Ombudsman hold regular meetings with the police to discuss current issues related to the enforcement of removals from the country and the monitoring of enforced removals. The meetings provide an opportunity to share information, clarify unclear or current issues, and also provide an informal and fairly quick venue for the systemic development of removal and monitoring activities.

### Ombudsman's recommendations and statements

The Non-Discrimination Ombudsman has the competence to issue advice and proposals. The Ombudsman has also issued recommendations regarding the structural flaws it has identified in connection with the monitoring of enforced removals from the country. These may be issues related to the activities of the police or other authorities. The Ombudsman also issues regular statements on matters within the Ombudsman's competence. Among other things, these statements have contributed to the wider adoption of fundamental and human rights friendly practices in police guidelines and regulations concerning return operations.

### Cooperation between authorities

In the course of their work, the monitors make observations on structural flaws and shortcomings in the activities of authorities. The purpose of monitoring the enforcement of removals is to make the structures as effective and respectful of the human rights of returnees as possible. This structural development work is done in cooperation with other authorities.

### Referral of cases for review by other oversight bodies

The Non-Discrimination Ombudsman has referred matters identified in monitoring to the Parliamentary Ombudsman as complaints, requests for review or for information. The Non-Discrimination Ombudsman can also refer matters to the police's legality control function.

### Annual report

The Ombudsman submits an annual report to the government. The report provides an opportunity for public debate on the enforcement of removals and the monitoring of enforcement, as well as the procedures involved in returns. For its part, the annual report contributes a degree of transparency and openness to the confidential activities of authorities.

## Non-Discrimination Ombudsman's report to Parliament

The Parliamentary report issued every four years is a significant instrument for including the results and conclusions of monitoring in political decision-making. The effective collection and processing of information by the monitoring team supports the Ombudsman in preparing the report.

### Comprehensive and timely communication

The Non-Discrimination Ombudsman takes part in the public debate on the enforcement of removals. The role of the Ombudsman brings a measure of transparency to the confidential activities of authorities.

## 6.3 Monitoring has made a difference

Monitors give feedback to the police departments that participated in the return operation and to the National Police Board after each monitoring operation. In their feedback, monitors give recommendations for the development of procedures. The monitors record good practices observed in the operation in order to disseminate them more widely among the police force. In some cases, the police have commented on individual feedback verbally or in writing. The National Police Board has at times considered it necessary to clarify practices and issue guidelines on procedures based on discussions had over the feedback on an individual operation.

The Ombudsman had the opportunity to submit opinions and recommendations in the preparation of the National Police Board's guideline for removals from the country<sup>46</sup>. The guideline accordingly takes into account the development suggestions made by the Ombudsman in several places, such as concerning a returnee's contact with their attorney and relatives or close acquaintances, and notifying both returnees and detention units of the date of departure. A general increase in awareness of fundamental and human rights is evident in the police's guidelines for removals from the country.

Some examples are provided below:

In training, feedback and negotiations with the police, the Ombudsman had emphasised the significance of preparing for the trip in accordance with the international recommendations for return operations. A reference to notifying the returnee of the date of return was added to the guideline on removals from the country for the first time. According to the guideline, the police must notify the returnee of the date of their removal from the country as soon as possible. If the police are aware of factors that could endanger the enforcement of the return, the head investigator can exceptionally decide not to announce the date of the return in advance.

The National Police Board's guideline on removals also lists considerations in removing victims of human trafficking from the country. It refers to the Supreme Administrative Court decision (KHO: 2017:42), according to which the police must cooperate with the assistance system of the victim's country of origin when returning a victim of human trafficking. The return arrangements for victims of human trafficking must be undertaken in good time and in cooperation with the staff of the Finnish assistance system for victims of human trafficking, so that they can inform the destination country's assistance organisations of the removal. If the victim does not consent to the disclosure of their data, efforts must be made to provide the victim with information on the assistance system in their country of origin.

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<sup>46</sup> Enforcement of a decision concerning denial of entry and deportation, POL-2019-27213

The police prepare an escort report on each escorted removal from the country. These reports can be used to assess even those return operations in which monitors have not participated. Escort reports are also important sources of information for the police's internal legality control. Accurate escort reports are also in the interests of the police, especially if the conduct of the escort officers is subjected to criticism. High-quality escort reports can also play a role in disseminating good practices.

According to the observations of the Non-Discrimination Ombudsman, the level of reports varied, and they were sometimes missing information essential for monitoring. The Ombudsman gave feedback to the police on the matter and has also drawn attention to the quality of escort reports in training. Partly due to the Ombudsman's feedback, more attention was given to the quality of escort reports both in training and police guidelines, and the quality of the reports has since improved considerably. This matter was also taken into consideration in the preparation of the regulation on the division of responsibilities<sup>47</sup>. According to the regulation, particular attention must be paid to the quality and content of the escort report. The report must discuss the different stages of the escort operation individually, so that an overall picture can be formed of the progress of the escort operation and good operating models can be utilised, for example in training.

Through publications (such as the annual report) and media appearances, the Non-Discrimination Ombudsman has increased the transparency of official activities related to the enforcement of removals. This has made a broader public debate on returns possible.

## 6.4 Communications

The functions of monitoring the enforcement of removals include increasing the transparency of the activities, participating in public discussion, and dispelling prejudices related to the activities of the authorities. Communication is an important tool for the success of this task. From the perspective of communication, the presence of the Non-Discrimination Ombudsman in return operations provides information on what happens during returns. As an expert, the Ombudsman can increase knowledge and participate in the public debate on monitoring.

The returns increased during 2016, and so did public interest in removals from the country. It was clear that there was very little information about the returns in the wider society. The public was thirsty for information on legislation, the powers of the various authorities, the process, and on how, when and why people are removed from the country. Monitoring the enforcement of removals from the country was a relatively new official duty of which there was no public awareness either. The Ombudsman has therefore used a great deal of communications resources to raise awareness of the role, powers and duties of monitors. Some citizens who have contacted the Ombudsman have assumed that the Ombudsman has the right to intervene in police procedures or even interrupt returns. The Ombudsman's communications personnel are frequently required to correct these misconceptions regarding the powers of monitors. The Ombudsman is often informed of the process and situation of individuals in the hope that the monitor could halt the enforcement of their removal from the country. The Ombudsman's statutory role has been difficult to fathom for outsiders.

There are several target groups for communications on the monitoring of removals from the country. Constructive interaction with the police, who are responsible for the operational activities, are part of the Ombudsman's everyday communications. Communication with other authorities involved in removals, as well as with civic activists and their attorneys, is also a part of the monitors' day-to-day communications. Over the years, the Ombudsman has communicated extensively on return operations through different channels.

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<sup>47</sup> Division of responsibilities for the enforcement of decisions concerning the removal of aliens from the country, POL-2017-5403

Each year, the Ombudsman's annual reports have highlighted different themes of monitoring activities, and the Non-Discrimination Ombudsman's report to Parliament (2018) analysed the impact and results of the new official duty. Stakeholders have also been introduced to monitoring activities through the Ombudsman's email newsletters. The Office of the Ombudsman has given dozens of interviews to the media. The Ombudsman also spoke at the police press conference on removal activities.

There has been considerable interest in return activities during the project, and the theme has occasionally been the subject of heated public debate. Discussion on the theme has been particularly active in the social media. Communicating about removals is difficult from the authority's point of view and participating in the public discussion is challenging. The main reason for this is that the debate often starts with the return of an individual, which authorities cannot comment on for reasons of confidentiality and the protection of privacy. It is nevertheless important for openness and transparency that the public get as much information as possible on returns. Returns involve a risk of infringing fundamental rights. Balancing the protection of the returnees' privacy and the secrecy provisions concerning the police with the transparency of government activities poses challenges for communications.

A further challenge arises from the fact that it is often unclear to outsiders who is responsible for communicating on return operations. Many people assume that the role of the Non-Discrimination Ombudsman as the monitor of returns also includes communicating on individual return operations. Over the past few years, the Ombudsman has been forced to state on numerous occasions that this is the role of the police, not the monitoring authority. As far as communications are concerned, the Ombudsman's role is limited to communicating on the activities of the Ombudsman's own office. The division of communications responsibilities requires further development. The Ombudsman has also corrected some erroneous claims concerning returns monitored by the Ombudsman.

Police communications on return operations are relatively sparse, which can easily put pressure on the Non-Discrimination Ombudsman's communications. People contact the Non-Discrimination Ombudsman because they cannot get the information they want from the police. However, it is not the duty of the Ombudsman to confirm or refute information falling within the competence of another authority. Public allegations are made concerning the situations of individual returnees, particularly in the social media.

Confidentiality obligations prevent the Ombudsman from commenting on every allegation. It would nevertheless be important to provide correct information on the asylum process, residence permits and return situations in order to enable public debate on these matters.

When the public debate ran hottest, the Ombudsman's Twitter account was quoted dozens of times a day. That is a significant number for a small communications team. The intention was often to bring the Ombudsman's attention to the situation of an individual. Sometimes questions or criticism were presented regarding the police, the Finnish Immigration Service or the residence permit process in general. The majority of the questions concerned the activities of the police or the Finnish Immigration Service and not matters falling within the competence of the Ombudsman. The Ombudsman has nevertheless pointed out that the questions were rarely answered and would have liked to see more active communications from the other authorities. The Ombudsman gave general answers to questions concerning the rights of returnees and the Ombudsman's own observations and recommendations as a supervisory authority. The Ombudsman has been contacted on a number of issues. Frequently occurring themes include surprise departures that have not permitted sufficient preparations for return or saying goodbye to family and friends. The Ombudsman cannot comment on when return operations take place, or who or how many are returned in them. In some cases, the Ombudsman has retrospectively informed citizens that the Ombudsman had monitored a completed operation.

The Ombudsman considers the lack of information in the public debate to be problematic and considers it important that the authorities participate in public discussion. Removals from the country are but a fraction of the entire asylum process, but one which has gained great symbolic meaning in public discussion. From the fate of returnees, the public eye turned to the residence permit process and its shortcomings. The authorities should be able to respond to the public's need for information, also on confidential matters. Communication is of great importance in this. The Ombudsman therefore proposes joint consideration of this question with the police, the Finnish Immigration Service and the administrative courts.

## 7. In conclusion

The primary objective of monitoring enforced removals from the country is to ensure the humane treatment of and respect for the fundamental and human rights of returnees. It is also an objective of monitoring to increase the transparency of the activities of authorities, improve the legal protection of returnees and dispel prejudices related to the activities of the authorities.

According to the Non-Discrimination Ombudsman's findings, many practices in return operations have improved in their consideration for fundamental rights. However, practices that respect fundamental rights and their further development require constant attention and training. Monitoring has revealed that practices vary and the rights of returnees are not always fulfilled. The fundamental rights issues that arise in connection with returns involve, for example the use of force by the police, the identification of vulnerable returnees, interpreting and legal protection. These are extremely fundamental rights, such as the protection of the returnees' physical integrity, life and health and ensuring that Finland does not violate the principle of non-refoulement.

This report has discussed both infringements of rights and good practices identified during monitoring. Practices that respect fundamental rights are based on humane methods that take the returnee's rights into account. One such practice is not initiating returns on overly tight schedules. Sufficient time and careful preparation for the return will enable obtaining the necessary information and give the returnee the opportunity to arrange their personal affairs properly. Good interaction skills on the part of the police, transparent practices and building confidence in the work of the police in the minds of returnees promote both successful enforcement and the realisation of the rights of returnees, for example by reducing the need to use force. Taking fundamental rights and the needs of those in a vulnerable position into account can also require special measures by the police.

The Non-Discrimination Ombudsman's next project will focus on the return of vulnerable individuals. The intention is also to enhance the monitors' competence in fundamental rights issues related to vulnerable individuals in order to make their rights and special needs visible and better served in the future. If a person's vulnerable position has not been identified, there is a high risk that their rights will not be fulfilled.

The Ombudsman will also continue developing the Ombudsman's own practices and promoting the conditions for effective monitoring. Monitors must be given sufficiently comprehensive notifications of upcoming returns in good time. Obtaining the requisite information from various authorities, including access rights to the Register of Foreigners, is the starting point for effective monitoring.

